
Introduced by Senator Perata
(Principal coauthor: Assembly Member Koretz)
(Coauthor: Senator Scott).

May 8, 2003

Senate Joint Resolution No. 18—Relative to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SJR 18, as introduced, Perata. Relative to firearms.

This measure would declare the Legislature's opposition to the adoption of, and would urge the United States executive branch's rejection of, specified federal legislation providing immunity from civil liability for negligence by the gun industry with regard to firearms.

Fiscal committee: no.

- 1 WHEREAS, The State of California in 2002, recognizing that
2 an immunized gun industry lacks the motivation to avoid negligent
3 or reckless behavior and creates grave dangers to the general
4 public, repealed its 20-year old gun industry immunity statute,
5 restoring the rights of victims of gun industry negligence to seek
6 redress in court; and
7 WHEREAS, The Congress of the United States is considering
8 legislation that will deprive the State of California of its sovereign
9 right to determine, according to its laws, whether negligent gun
10 manufacturers, distributors, and dealers should be held to answer
11 to California citizens who suffer injury as a result of that
12 negligence; and
13 WHEREAS, Subdivision (a) of Section 1714 of the Civil Code
14 of California reads, in pertinent part, as follows: "Every one is
15 responsible, not only for the result of his or her willful acts, but also

1 for an injury occasioned to another by his or her want of ordinary
2 care or skill in the management of his or her property or person,
3 except so far as the latter has, willfully or by want of ordinary care,
4 brought the injury upon himself or herself. The design,
5 distribution, or marketing of firearms and ammunition is not
6 exempt from the duty to use ordinary care and skill that is required
7 by this section”; and

8 WHEREAS, Legislation currently pending in the United States
9 Senate will eliminate the rights of private citizens in California
10 injured by gun industry negligence to bring suit in California’s
11 state courts under rules established by California’s system of
12 statutes and common law; and

13 WHEREAS, Robert Ricker, a former attorney for the National
14 Rifle Association and Executive Director of the American
15 Shooting Sports Council, a national industry trade association, has
16 declared under oath that the firearm industry “has long known that
17 the diversion of firearms from legal channels of commerce to the
18 illegal black market in California and elsewhere, occurs
19 principally at the distributor/dealer level”; and

20 WHEREAS, Mr. Ricker has further declared under oath that
21 “leaders in the industry have long known that greater industry
22 action to prevent illegal transactions is possible and would curb the
23 supply of firearms to the illegal market”; and

24 WHEREAS, Mr. Ricker has further declared under oath that
25 “leaders in the industry have consistently resisted taking
26 constructive voluntary action to prevent firearms from ending up
27 in the illegal gun market and have sought to silence others within
28 the industry who have advocated reform”; and

29 WHEREAS, Mr. Ricker has further declared under oath that
30 “instead of requiring dealers to be proactive and properly trained
31 in an effort to stop questionable sales, it has been a common
32 practice of gun manufacturers and distributors to adopt a
33 ‘see-no-evil, hear-no-evil, speak-no-evil’ approach”; and

34 WHEREAS, Unlike any other product sold in America, no
35 federal agency has any safety-related regulatory authority over the
36 design, manufacture, marketing, or distribution of firearms,
37 resulting in the absence of any mechanism other than litigation to
38 encourage the gun industry to act with the same level of reasonable
39 care required of participants in every other industry; and



1 WHEREAS, The granting to a single industry of broad
2 immunity from liability for its own negligence, when every other
3 industry is held to a higher standard of accountability, places the
4 desires of a special interest above the needs of the citizens of
5 California, now, therefore, be it

6 *Resolved, by the Senate and Assembly of the State of California,*
7 *jointly,* That the State of California opposes the adoption of this
8 legislation; and be it further

9 *Resolved,* That the State of California hereby urges the
10 executive branch of the United States to reject this legislation; and
11 be it further

12 *Resolved,* That the Secretary of the Senate transmit copies of
13 this resolution to the President and Vice President of the United
14 States, to the Speaker of the House of Representatives, to the
15 Majority Leader of the Senate, and to each Senator and
16 Representative from California in the Congress of the United
17 States.

